



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004

Introduced 2/4/2004, by Dale A. Righter

SYNOPSIS AS INTRODUCED:

730 ILCS 5/5-6-1

from Ch. 38, par. 1005-6-1

Amends the Unified Code of Corrections. Provides that a person charged with a Class A misdemeanor violation of sexual exploitation of a child may not receive a disposition of supervision.

LRB093 20762 RLC 46659 b

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Unified Code of Corrections is amended by
5 changing Section 5-6-1 as follows:

6 (730 ILCS 5/5-6-1) (from Ch. 38, par. 1005-6-1)

7 Sec. 5-6-1. Sentences of Probation and of Conditional
8 Discharge and Disposition of Supervision. The General Assembly
9 finds that in order to protect the public, the criminal justice
10 system must compel compliance with the conditions of probation
11 by responding to violations with swift, certain and fair
12 punishments and intermediate sanctions. The Chief Judge of each
13 circuit shall adopt a system of structured, intermediate
14 sanctions for violations of the terms and conditions of a
15 sentence of probation, conditional discharge or disposition of
16 supervision.

17 (a) Except where specifically prohibited by other
18 provisions of this Code, the court shall impose a sentence of
19 probation or conditional discharge upon an offender unless,
20 having regard to the nature and circumstance of the offense,
21 and to the history, character and condition of the offender,
22 the court is of the opinion that:

23 (1) his imprisonment or periodic imprisonment is
24 necessary for the protection of the public; or

25 (2) probation or conditional discharge would deprecate
26 the seriousness of the offender's conduct and would be
27 inconsistent with the ends of justice.

28 The court shall impose as a condition of a sentence of
29 probation, conditional discharge, or supervision, that the
30 probation agency may invoke any sanction from the list of
31 intermediate sanctions adopted by the chief judge of the
32 circuit court for violations of the terms and conditions of the

1 sentence of probation, conditional discharge, or supervision,
2 subject to the provisions of Section 5-6-4 of this Act.

3 (b) The court may impose a sentence of conditional
4 discharge for an offense if the court is of the opinion that
5 neither a sentence of imprisonment nor of periodic imprisonment
6 nor of probation supervision is appropriate.

7 (c) The court may, upon a plea of guilty or a stipulation
8 by the defendant of the facts supporting the charge or a
9 finding of guilt, defer further proceedings and the imposition
10 of a sentence, and enter an order for supervision of the
11 defendant, if the defendant is not charged with: (i) a Class A
12 misdemeanor, as defined by the following provisions of the
13 Criminal Code of 1961: Sections 11-9.1; 12-3.2; 12-15; 26-5;
14 31-1; 31-6; 31-7; subsections (b) and (c) of Section 21-1;
15 paragraph (1) through (5), (8), (10), and (11) of subsection
16 (a) of Section 24-1; (ii) a Class A misdemeanor violation of
17 Section 3.01, 3.03-1, or 4.01 of the Humane Care for Animals
18 Act; or (iii) felony. If the defendant is not barred from
19 receiving an order for supervision as provided in this
20 subsection, the court may enter an order for supervision after
21 considering the circumstances of the offense, and the history,
22 character and condition of the offender, if the court is of the
23 opinion that:

24 (1) the offender is not likely to commit further
25 crimes;

26 (2) the defendant and the public would be best served
27 if the defendant were not to receive a criminal record; and

28 (3) in the best interests of justice an order of
29 supervision is more appropriate than a sentence otherwise
30 permitted under this Code.

31 (d) The provisions of paragraph (c) shall not apply to a
32 defendant charged with violating Section 11-501 of the Illinois
33 Vehicle Code or a similar provision of a local ordinance when
34 the defendant has previously been:

35 (1) convicted for a violation of Section 11-501 of the
36 Illinois Vehicle Code or a similar provision of a local

1 ordinance or any similar law or ordinance of another state;
2 or

3 (2) assigned supervision for a violation of Section
4 11-501 of the Illinois Vehicle Code or a similar provision
5 of a local ordinance or any similar law or ordinance of
6 another state; or

7 (3) pleaded guilty to or stipulated to the facts
8 supporting a charge or a finding of guilty to a violation
9 of Section 11-503 of the Illinois Vehicle Code or a similar
10 provision of a local ordinance or any similar law or
11 ordinance of another state, and the plea or stipulation was
12 the result of a plea agreement.

13 The court shall consider the statement of the prosecuting
14 authority with regard to the standards set forth in this
15 Section.

16 (e) The provisions of paragraph (c) shall not apply to a
17 defendant charged with violating Section 16A-3 of the Criminal
18 Code of 1961 if said defendant has within the last 5 years
19 been:

20 (1) convicted for a violation of Section 16A-3 of the
21 Criminal Code of 1961; or

22 (2) assigned supervision for a violation of Section
23 16A-3 of the Criminal Code of 1961.

24 The court shall consider the statement of the prosecuting
25 authority with regard to the standards set forth in this
26 Section.

27 (f) The provisions of paragraph (c) shall not apply to a
28 defendant charged with violating Sections 15-111, 15-112,
29 15-301, paragraph (b) of Section 6-104, Section 11-605, or
30 Section 11-1414 of the Illinois Vehicle Code or a similar
31 provision of a local ordinance.

32 (g) Except as otherwise provided in paragraph (i) of this
33 Section, the provisions of paragraph (c) shall not apply to a
34 defendant charged with violating Section 3-707, 3-708, 3-710,
35 or 5-401.3 of the Illinois Vehicle Code or a similar provision
36 of a local ordinance if the defendant has within the last 5

1 years been:

2 (1) convicted for a violation of Section 3-707, 3-708,
3 3-710, or 5-401.3 of the Illinois Vehicle Code or a similar
4 provision of a local ordinance; or

5 (2) assigned supervision for a violation of Section
6 3-707, 3-708, 3-710, or 5-401.3 of the Illinois Vehicle
7 Code or a similar provision of a local ordinance.

8 The court shall consider the statement of the prosecuting
9 authority with regard to the standards set forth in this
10 Section.

11 (h) The provisions of paragraph (c) shall not apply to a
12 defendant under the age of 21 years charged with violating a
13 serious traffic offense as defined in Section 1-187.001 of the
14 Illinois Vehicle Code:

15 (1) unless the defendant, upon payment of the fines,
16 penalties, and costs provided by law, agrees to attend and
17 successfully complete a traffic safety program approved by
18 the court under standards set by the Conference of Chief
19 Circuit Judges. The accused shall be responsible for
20 payment of any traffic safety program fees. If the accused
21 fails to file a certificate of successful completion on or
22 before the termination date of the supervision order, the
23 supervision shall be summarily revoked and conviction
24 entered. The provisions of Supreme Court Rule 402 relating
25 to pleas of guilty do not apply in cases when a defendant
26 enters a guilty plea under this provision; or

27 (2) if the defendant has previously been sentenced
28 under the provisions of paragraph (c) on or after January
29 1, 1998 for any serious traffic offense as defined in
30 Section 1-187.001 of the Illinois Vehicle Code.

31 (i) The provisions of paragraph (c) shall not apply to a
32 defendant charged with violating Section 3-707 of the Illinois
33 Vehicle Code or a similar provision of a local ordinance if the
34 defendant has been assigned supervision for a violation of
35 Section 3-707 of the Illinois Vehicle Code or a similar
36 provision of a local ordinance.

1 (j) The provisions of paragraph (c) shall not apply to a
2 defendant charged with violating Section 6-303 of the Illinois
3 Vehicle Code or a similar provision of a local ordinance when
4 the revocation or suspension was for a violation of Section
5 11-501 or a similar provision of a local ordinance, a violation
6 of Section 11-501.1 or paragraph (b) of Section 11-401 of the
7 Illinois Vehicle Code, or a violation of Section 9-3 of the
8 Criminal Code of 1961 if the defendant has within the last 10
9 years been:

10 (1) convicted for a violation of Section 6-303 of the
11 Illinois Vehicle Code or a similar provision of a local
12 ordinance; or

13 (2) assigned supervision for a violation of Section
14 6-303 of the Illinois Vehicle Code or a similar provision
15 of a local ordinance.

16 (Source: P.A. 93-388, eff. 7-25-03.)